

Notice of Allowability

Application No.

09/856,983

Examiner

Robert D. Harlan

Applicant(s)

GOTTSCHALL, KLAUS

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 04/16/2007.
2. ☒ The allowed claim(s) is/are 25,31-36 and 38.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Response to Amendment/Arguments

1. Applicant's amendment and arguments filed on 04/16/2007 have been fully considered and they are found persuasive.
2. The rejection of claims 25-29, 34-37 and 39 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is withdrawn.
3. The rejection of claims 25, 33 and 38-39 under 35 U.S.C. 102(a) as being anticipated by Anseth et al., U.S. Patent No. 5,902,599 (hereinafter "Anseth") is withdrawn.
4. The rejection of claims 25, 33, 34 and 39-43 under 35 U.S.C. 102(e) as being anticipated by Winter et al., U.S. Patent No. 6,558,607 B1 (hereinafter "Winter") is withdrawn.

Allowable Subject Matter/Reasons for Allowance

5. Claims 25, 31-36 and 38 are allowed.

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6. The following is an examiner's statement of reasons for allowance: The closest prior art located or identified by the Examiner is Anseth and Winter.

7. The Examiner concurs the Applicant in that Anseth teaches a process where SA or CPH or oligomers thereof, are reacted with MA to yield an anhydride functionalized monomer, which is cross linked to yield a cross linked polymer network. See Anseth, col. 3, line 12 through col. 5, line 20. The cross-linked polymer network corresponds to step (i) of claim 25 and step (ii) of claim 39. In the drug delivery application, Anseth teaches the drug is incorporated before or after the cross-linking step into the polymer/prepolymer. See Anseth, col. 7, lines 60 through col. 8, line 38. Thus it is clear from the reading of Anseth that the addition of a drug compound, protein and/or carbohydrate can be added before or after the polymerization step covering both claims 25 and 39 as best can be interpreted. Furthermore, the energy requirement (more than 0.1 kcal/mole) is minimal at best covering most inter- and intra-molecular bonding particularly H-bonding.

8. Winter teaches micro and nano-porous materials made from cross-linked polymers crystallized from supercritical fluids

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with many uses in medical fields and separation science and others. See Winter, Abstract; col. 1, line 66 through col. 4, line 22. Winter clearly teaches step (i) the cross-linking of a polymer. See Winter, col. 5, line 30 through col. 7, line 11. Winter further teaches a method of using the cross-linking polymers in separation, biological and catalysis that require the introduction of a chemical compound or biological structure. See Winter col. 10, lines 8-67; claims 16-20. Furthermore, Winter teaches the method for using the cross-linked polymer structures in separation science particularly chromatography that require selection, detection and signaling. See Winter, col. 3, line 45 through col. 4, line 22.

9. The present invention has been amended to require the polymer be prepared on a support material. Anseth and Winter do not teach a process that uses a support material to prepare the crosslinked polymer/template structure.

10. As of the date of this Notice of Allowability, the Examiner has not located or identified any reference that can be used singularly or in combination with another reference including Anseth and Winter to render the present invention anticipated or obvious to one of ordinary skill in the art.

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11. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

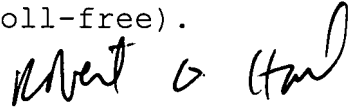
Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert D. Harlan whose telephone number is (571) 272-1102. The examiner can normally be reached on Mon-Fri, 10 AM - 8 PM.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Wu can be reached on (571) 273-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert D. Harlan
Primary Examiner
Art Unit 1713

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